reduced to writing nor did he say that this was not done because the delay would have defeated the ends of justice.

Held: at the end of the prosecution case the evidence was incomplete and therefore the appellants should not have been called for their defence.

MAGISTRATE'S CRIMINAL APPEAL.

R. H. V. Rintoul for the appellants.

L. A. Massie (Federal Counsel) for the respondent.

Cur. Adv. Vult.

Abbott J. : — The two appellants were convicted by the Magistrate of having been found assisting in the management of a place used as a common betting house — an offence contrary to section 4(1)(c) of the Betting Ordinance, No. 47 of 1953. The police raid, led by a senior police officer within the meaning of the definition contained in section 2 of the Ordinance, disclosed that the premises were being used in connection with betting on horse racing and that the appellants were assisting in the management of the premises. The only point for determination is as to whether or not the prosecution had made out a *prima facie* case before the defence was called upon. Before the prosecution closed its case, the senior police officer merely stated that he led the raid acting upon information which had been given to him by some person, orally in the street. Sections 12, 13 and 14 empower the search of premises and the granting of search warrants by Magistrates, Justices of the Peace and Senior Police Officers. Section 14(1)(d) enables premises to be searched without reducing an informer's information to writing where the object of the search would be defeated by the delay. The senior police officer himself did not testify as to whether or not such delay would have defeated the ends of justice, nor did he give any reason as to why the information had not been reduced to writing. At the close of the prosecution case, therefore, the evidence was incomplete and no *prima facie* case had been made out. The appeal must, therefore, be allowed. The fines, if paid, are to be returned to the appellants together with the exhibits.

Appeal allowed.

Solicitors for the appellant: *Shearn, Delamore & Co.*

ER BOON YAN & ORS. v. THE COLLECTOR OF LAND REVENUE, PORT DICKSON

[A. C. J. (Abbott J.) May 4, 1955]
[Seremban — Reference to Court No. 1 of 1955]

Land Acquisition Enactment (Cap. 140) — Principles to be followed in assessing value of lands acquired.

The lands in question in this case were acquired by the Negri Sembilan State Government under the Land Acquisition Enactment. The Collector of Land Revenue assessed the land and subsequently there was a reference to Court under s. 22(ii) of the Enactment.

Held: (1) the Collector was wrong in valuing the land solely upon the value of the rubber on the land and not upon the land itself and he should have taken account of the potentialities of the land for other purposes; (2) it is never a correct procedure to compensate persons whose lands have been compulsorily acquired, by offering them substantially less than what they have paid for the lands — particularly in the present case where the land had been bought by the applicants so shortly before the acquisition took place and where there was no suggestion that the applicants had speculated on the purchase of the lands on the chance that it could be acquired by the Government.

LAND ACQUISITION.

S. D. K. Paddie for the applicants.

L. A. Massie (Federal Counsel) for the respondent.

Cur. Adv. Vult.

The facts appear sufficiently from the judgment below with which the Assessors, Messrs. R. H. V. Kinloch and Yap Man Tat agreed.

Abbott J. : — On the 11th of August, 1953, the Negri Sembilan State Government acquired eight pieces of land, the property severally of the applicants, under the Land Acquisition Enactment (Cap. 140). The lands in question are set out in the plan attached to the papers in this case. The Collector of Land Revenue assessed the compensation payable as follows:—

$700 an acre in respect of the area "A" shown upon the plan; and
$400 an acre in respect of the other seven pieces of land.

Only one witness was called and the evidence which he gave supported the Collector's valuation of the lands in question. Learned Counsel for the applicants was content to leave it to the Court and Assessors to determine the claim by reference to the papers filed in the case.

As regards the area marked "A" on the plan, it appears that this land was bought by applicants 1 and 2 on the 1st of June, 1951 — some two years before the acquisition and the price paid for it was $27,900, which is $450 an acre. The Collector assessed the value of this land at $700 an acre. Now, these applicants have put in a substantial claim of $39,764 in respect of natural upkeep (mistakenly called "improvements" in the documents) said to have been made to the land in question. The Assessors and I are firmly of the opinion that this claim is exaggerated; that being so, there is no necessity to go into the details of it and we are of opinion that a reasonable cost of such upkeep would not have amounted in all to more than $250 an acre for 18 months, that is, $15,500. In our view the Collector's valuation was not unreasonable and, therefore, we award compensation at $700 an acre together with $15,500 in respect of the cost of upkeep — the total being $58,900.

As regards the remaining pieces of land, these were all acquired shortly before the acquisition and some of the applicants were in possession for only 7½

months. The Collector valued all these pieces of land at $400 an acre, which is substantially less than the amounts which the applicants had paid for them. The Collector and Mr. Stewart, in making their assessments, gave their valuations solely upon the value of the rubber on the land and *not upon the land itself*. The Assessors and I feel that this was not a correct procedure to have adopted. It is true that at the time of the acquisition the land was in use for rubber production but no account was taken of the potentialities of the land for other purposes, that is to say, for other economic crops which might well be more financially productive than would be in the case of old or poor rubber trees. If such a basis of valuation were to be regarded as a proper basis circumstances could be visualized where, if the production of rubber became wholly uneconomic, the land would be regarded as worthless and, as such, not available for compensation. In addition to these considerations, the Assessors and I feel that it could never be a correct procedure to compensate persons, whose lands have been compulsorily acquired, by offering them substantially less than what they have paid for the land — particularly in this present case where the land had been bought by the applicants so shortly before the acquisition took place. It could never be a sound proposition that a man dispossessed of his property could be required to make a financial sacrifice except he was willing to do so. In our view the proper amount to be awarded is the amount which each applicant paid. The applicants may have paid more than other people would have paid for the land — they may even have paid more than the land was worth to a cautious purchaser but, even so, the principle remains the same. Different considerations might apply in any case where it could be shown that a purchaser speculated in the purchase of land on the chance that it would be acquired by the Government. No suggestion of such speculation arises in this case. In the opinion of the Assessors and myself, the proper compensation payable to them in respect of the acquisition of their lands is the price which they paid for it together with, in each case, an amount due in respect of natural upkeep and these we assess as follows :—

B — $600
C, D — As there was no claim there is nothing to assess.
E — $500
F — $2,000
G — $2,500
H — $6,500

I have explained to the Assessors the legal position regarding the assessment for compensation.

No order as to costs, since the applicants do not ask for them.

Order accordingly.

Solicitors for the applicants: *Shearn, Delamore & Co.*

SINNU v. PUBLIC PROSECUTOR

[A. Cr. J. (Thomson J.) May 13, 1955]

[Ipoh — Criminal Appeal No. 17 of 1955]

Town Boards Enactment (Cap. 137), s. 91(i) — Demolition — Application for by Chairman of Town Board not intimated to accused — Irregularity curable under s. 442 of Criminal Procedure Code (Cap. 6).

The appellant in this case was convicted of commencing a building without giving notice and without having plans approved contrary to s. 91(i) of the Town Boards Enactment. He was fined $50 and an order for demolition of the building was made in addition.

Counsel for the appellant contended that the order of demolition should be set aside on the ground that the record did not show on the face of it that the application for it was made by the Chairman of the Town Council.

The learned Judge called for a report from the learned Magistrate who reported that at the time he had before him a written application for demolition order signed by the Chairman of the Town Council. This was forwarded to the learned Judge for his perusal.

Held: (1) the application should have been intimated to the accused and a copy of it should have been included in the record of the case forwarded to the Court; (2) in the circumstances of the case the failure of the Magistrate to intimate the existence of the application to the accused was an irregularity which was capable of being cured by virtue of s. 422 of the Criminal Procedure Code.

Cases referred to:—

(1) *Lee Kie Lie's case* Perak Criminal Revision No. 42 of 1953 — unreported.

(2) *Lew Yew v. Public Prosecutor* (1953) M.L.J. 211.

MAGISTRATE'S CRIMINAL APPEAL.

C. N. Lim for the appellant.

I. Talong Davies (Federal Counsel) for the respondent.

Cur. Adv. Vult.

Thomson J. : — The appellant in this case was convicted on 18th February, 1955, before the Magistrate at Ipoh of commencing a building within the Ipoh and Menglembu Town Council Area without giving notice and without having plans approved in contravention of section 91(i) of the Town Boards Enactment. He was convicted and sentenced to pay a fine of $50. In addition, an order was made for the demolition of the building.

Against that conviction and sentence and order of demolition the appellant appealed and his appeal came on for hearing before me on 14th April, 1955.

As regards the conviction and sentence I took the view that the appeal was without substance and I dismissed it.

With regard to the demolition order, however, the point was taken by counsel for the appellant that that order should be set aside on the ground that the record